

ORDINANCE NO. 1331

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI,
CALIFORNIA AUTHORIZING THE ISSUANCE OF NOTES BY
NORTHERN CALIFORNIA POWER AGENCY (COMBUSTION
TURBINE PROJECT NUMBER ONE)

WHEREAS, pursuant to the provisions relating to joint exercise of powers found in Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, as amended (the "Joint Powers Act"), the City of Lodi, California and certain other public agencies created pursuant to the laws of the State of California (collectively, the "Members"), have entered into a Joint Powers Agreement as amended (the "Agreement"), creating Northern California Power Agency (the "Agency"), a public entity separate and apart from the Members; and

WHEREAS, in accordance with the Agreement and the Joint Powers Act, the Agency has entered or will enter into agreements to acquire and construct (or to cause to be acquired and constructed) a project for the generation and transmission of electric energy consisting of not more than seven 24-megawatt combustion turbine generating units or such lesser number of units, but not less than three, as will be determined in accordance with the terms and conditions of the Third Phase Agreement (as hereinafter defined) and related facilities, including electric facilities necessary for the Project to interconnect with the adjacent electric system, and all rights, properties and improvements necessary therefor, including fuel and water facilities and resources, and capital improvements that may be constructed from time to time (the "Project"); and

WHEREAS, the Agency proposes to issue, in accordance with the Agreement and the Joint Powers Act, from time to time, in one or more installments, its notes and other evidences of indebtedness (including renewal notes) ("Notes") to be outstanding at any one time in accordance with their terms in the estimated maximum aggregate principal amount of \$130,000,000; for the purpose of financing studies, the acquisition of options, permits, and other preliminary costs to be incurred prior to the undertaking of the construction or

acquisition of the Project and for the purpose of providing temporary financing of costs of acquisition and construction of the Project; and

WHEREAS, the Agency proposes to issue its revenue bonds and other evidences **of** indebtedness ("Acquisition Bonds") for the purpose of providing funds for the financing of the acquisition and construction of the Project; and

WHEREAS, notwithstanding the aforesaid estimated maximum aggregate principal amount of Notes proposed to be issued by the Agency for the Project and to be outstanding at any one time in accordance with their terms, additional Notes may be required to complete the financing **of** studies, the acquisition of options, permits and other preliminary costs to be incurred prior to the undertaking of the construction or acquisition **of** the Project or to complete the temporary financing **of** costs of acquisition and construction **of** the Project; and

WHEREAS, the Agency has entered or will enter into one or more agreements (the "Third Phase Agreements") with certain entities (including two or more of the Members"), pursuant to which the entities entering into such Third Phase Agreements with the Agency (the "**Participants**") will, in the aggregate, purchase options and/or rights to purchase and/or receive 100% of the capacity and energy of the Project; and

WHEREAS, the Notes are to be renewable from time to time and the principal of and interest on the Notes are payable from proceeds of renewal Notes and the proceeds of the Acquisition Bonds and, to the extent not **so** paid, may be payable from revenues of the Agency from the Project, including payments to **be** made by the Participants under the Third Phase Agreements; and

WHEREAS, in accordance with Section 6547 of the Joint Powers Act, the exercise by the Agency of its power to issue the Notes is subject to the authorization of such issuance by the Participants pursuant to ordinance; and

WHEREAS, neither the payment of principal of the Notes nor any part thereof nor interest thereon shall constitute a debt,

liability or obligation of the City of **Lodi**, California; nor does this Ordinance commit the City of Lodi, California to take or pay for any capacity or energy of the Project; and

WHEREAS, this City Council has determined that the financing of the acquisition and construction of the Project by the Agency is appropriate to assist the City in meeting the future power needs of its customers for electric energy; and

WHEREAS, this City Council has authorized by Ordinance the issuance and sale by the Agency of its Acquisition Bonds, the proceeds from the sale of which are to be used for the financing of the acquisition and construction of the Project, including interest on such Acquisition Bonds and deposits to reserves, and to pay the principal, premium, if any, and interest on the Notes authorized by this Ordinance when due.

NOW, THEREFORE, the City Council of the City of Lodi, California does ordain as follows:

1. The issuance and sale by the Agency from time to time, in one or more installments, of its Notes (including renewal Notes) for the purpose of financing studies, the acquisition of options, permits and other preliminary costs to be incurred prior to the undertaking **of** the construction or acquisition of the Project and for the purpose of providing temporary financing of costs of acquisition and construction of the Project, outstanding at any one time in accordance with their terms in a maximum aggregate principal amount of **\$130,000,000** is hereby authorized. Notwithstanding such maximum aggregate principal amount, the Agency is hereby authorized to issue additional principal amounts of Notes if and to the extent required to complete the financing of studies, the acquisition of options, permits and other preliminary costs to **be** incurred prior to the undertaking of the construction or acquisition of the Project or to complete the temporary financing **of** costs of acquisition and construction of the Project. The proceeds from the sale of the Notes hereby authorized are to be used for the purpose of financing financial feasibility studies, enviromntal impact studies and other studies relating to the Project, the acquisition of options, permits and other preliminary

costs to be incurred prior to the undertaking of the construction or acquisition of the Project and for the purpose of providing temporary financing of costs of acquisition and construction of the Project, including interest on the Notes. The Notes hereby authorized are to be renewable from time to time and the principal of such Notes, and premium, if any, and interest thereon, are to be payable from proceeds of renewal Notes and the proceeds of Acquisition Bonds of the Agency, and, to the extent not *so* paid, may be payable from revenues of the Agency from the Project, including payments received by the Agency from the Participants under the Third Phase Agreements.

2. Pursuant to Section 6547 of the Joint Powers Act, this Ordinance is subject to the provisions for referendum prescribed by Section 3751.7 of the Elections Code of the State of California.

3. The City Clerk shall certify to the enactment of this Ordinance and shall cause notice of the same to be published in accordance with Section 6040.1 of the Government Code of the State of California.

4. Sixty (60) days from and after its enactment, this Ordinance shall take effect and be in full force, in the manner provided by law.

THE FOREGOING **ORDINANCE** is approved, enacted and adopted by the City Council of the City of **Lodi**, California this 1st day of August, 1984.

Mayor

Attest:

Alice M. Reimche
City Clerk

State of California
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi,
do hereby certify that Ordinance No. 1331 was
introduced at a regular meeting of the City Council

of the City of Lodi held July 18, 1984 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held August 1, 1984 by the following vote:

Ayes: Council Members - Hinchman, Olson, and Reid

Noes: Council Members - Pinkerton

Absent: Council ~~Members~~ - Snider

Abstain: Council Members - None

I further certify that Ordinance No. 1331 was approved and signed by the Mayor **on** the date of its passage and the **same** has been published pursuant to law.

Alice **M.** Reimche
City Clerk